

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID A. KELLEY,

Defendant.

No. CR21-53-RSM

**PRELIMINARY
ORDER OF FORFEITURE**

THIS MATTER comes before the Court on the United States' Motion for Entry of a Preliminary Order of Forfeiture ("Motion") seeking to forfeit, to the United States, Defendant David A. Kelley's interest in the following property:

1. \$55,100 in U.S. Currency seized on or about November 9, 2020, at 11150 Luther Avenue South, Seattle, Washington.

The Court, having reviewed the United States' Motion, as well as the other papers and pleadings filed in this matter, hereby FINDS that entry of a Preliminary Order of Forfeiture is appropriate because:

- The above-identified property is forfeitable pursuant to 21 U.S.C. § 853(a), as proceeds the Defendant obtained directly or indirectly as the result of the Defendant's commission of Conspiracy to Distribute Controlled Substances, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1) and 846; and,

- Pursuant to the Plea Agreement he entered on January 7, 2022, the Defendant agreed to forfeit the above-identified property, which is subject to forfeiture pursuant to 21 U.S.C. § 853(a). Dkt. No. 68, ¶ 12.

NOW, THEREFORE, THE COURT ORDERS:

1. Pursuant to 21 U.S.C. § 853(a), and his Plea Agreement, the Defendant's interest in the above-identified property is fully and finally forfeited, in its entirety, to the United States;

2. Pursuant to Fed. R. Crim. P. 32.2(b)(4)(A)-(B), this Preliminary Order will be final as to the Defendant at the time he is sentenced, it will be made part of the sentence, and it will be included in the judgment;

3. The United States Department of Justice, the Federal Bureau of Investigation, the United States Marshals Service, and/or their authorized agents or representatives, shall maintain the above-identified property in its custody and control until further order of this Court;

4. Pursuant to Fed. R. Crim. P. 32.2(b)(6) and 21 U.S.C. § 853(n), the United States shall publish notice of this Preliminary Order and its intent to dispose of the property as permitted by governing law. The notice shall be posted on an official government website—www.forfeiture.gov—for at least thirty (30) days. For any person known to have alleged an interest in the property, the United States shall also, to the extent possible, provide direct written notice to that person. The notice shall state that any person, other than the Defendant, who has or claims a legal interest in the above identified property must file a petition with the Court within sixty (60) days of the first day of publication of the notice (which is thirty (30) days from the last day of publication), or within thirty (30) days of receipt of direct written notice, whichever is earlier. The notice shall advise all interested persons that the petition:

a. shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the property;

b. shall be signed by the petitioner under penalty of perjury; and

1 c. shall set forth the nature and extent of the petitioner's right, title, or
2 interest in the property, as well as any facts supporting the
3 petitioner's claim and the specific relief sought.

4 5. If no third-party petition is filed within the allowable time period, the
5 United States shall have clear title to the property, and this Preliminary Order shall
6 become the Final Order of Forfeiture as provided by Fed. R. Crim. P. 32.2(c)(2);

7 6. If a third-party petition is filed, upon a showing that discovery is necessary
8 to resolve factual issues presented by that petition, discovery may be conducted in
9 accordance with the Federal Rules of Civil Procedure before any hearing on the petition
10 is held. Following adjudication of any third-party petitions, the Court will enter a Final
11 Order of Forfeiture, pursuant to Fed. R. Crim. P. 32.2(c)(2) and 21 U.S.C. § 853(n),
12 reflecting that adjudication; and

13 7. The Court will retain jurisdiction for the purpose of enforcing this
14 Preliminary Order, adjudicating any third-party petitions, entering a Final Order of
15 Forfeiture, and amending the Preliminary Order or Final Order as necessary pursuant to
16 Fed. R. Crim. P. 32.2(e).

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18 IT IS SO ORDERED.

19 DATED this 11th day of March, 2022.

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22 RICARDO S. MARTINEZ
23 CHIEF UNITED STATES DISTRICT JUDGE
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2 Presented by:

3
4 s/Krista K. Bush

5 KRISTA K. BUSH

6 Assistant United States Attorney

7 United States Attorney's Office

8 700 Stewart St., Suite 5220

9 Seattle, WA 98101

10 (206) 553-2242

11 Krista.Bush@usdoj.gov